

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 6083**

**BILL NUMBER:** HB 1037

**NOTE PREPARED:** Oct 22, 2004

**BILL AMENDED:**

**SUBJECT:** Pharmacy Security.

**FIRST AUTHOR:** Rep. Neese

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** The bill permits a pharmacist to refuse to honor a prescription in certain circumstances. It provides additional penalties for robbery and intimidation if the offense occurs on the premises of a pharmacy. The bill requires the Board of Pharmacy to compile data on incidents of criminal conduct that occur on the premises of a pharmacy. It also allows the Board to require a pharmacy to implement certain security measures.

**Effective Date:** July 1, 2005.

**Explanation of State Expenditures:** This bill requires the Board of Pharmacy to compile data on incidents of criminal conduct, which are defined as aggravated felonies committed at a pharmacy that result in a report made to a law enforcement agency, an arrest, or a conviction. The Professional Licensing Agency reports that additional staff would be needed to compile such information due to their current staff working to capacity.

As of September 7, 2004, the PLA had 33 full-time staff members and 10 vacancies. If at least one COMOT 3 position was needed to fulfill the requirements of this bill, the position would cost the agency \$35,585 in FY 2005 and \$35,057 in FY 2006. The agency reverted approximately \$98,000 from FY 2004.

*Background:* The information this bill requires the Board to compile may be available in the future from a single database created by the state court system. The Judicial Technology Automation Project seeks to compile information from trial courts across the state to be accessible statewide. However, according to testimony provided to the Commission on Courts on August 11, 2004, the project is not expected to be fully running statewide until 2008.

*Penalty Provision:* The bill makes it a Class D felony to intimidate, and a Class B felony to commit robbery by using force against, threatening, or putting in fear, an employee of a pharmacy, pharmacist intern/extern, or patron of a pharmacy. The robbery offense is considered a Class A felony if the act results in serious bodily injury.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$21,514 in FY 2004, ranging from a low of \$16,645 to a high of \$49,281. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$59,574, with the costs ranging from a low of \$52,420 to a high of \$77,674. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

A Class B felony is punishable by a prison term ranging from 6 to 20 years depending upon mitigating and aggravating circumstances. The average length of stay in DOC facilities for all Class B felony offenders is approximately 3.7 years.

A Class A felony is punishable by a prison term ranging from 20 to 50 years depending upon mitigating and aggravating circumstances. The average length of stay in DOC facilities for all Class A felony offenders is approximately 9.1 years.

**Explanation of State Revenues:** *Immunity Provision:* The bill makes pharmacists immune from criminal prosecution and civil liability for refusing to honor a prescription for certain reasons. If fewer civil actions occur as a result of the immunity provision, revenue to the state General Fund from court fees would be less than what would have otherwise occurred. However, any changes in revenue are likely to be small.

*Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony, a Class B felony, and a Class A felony is \$10,000. Criminal fines are deposited in the Common School Fund. However, any additional revenues would likely be small.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

**Explanation of Local Expenditures:** *Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

**Explanation of Local Revenues:** *Immunity Provision:* The bill makes pharmacists immune from criminal prosecution and civil liability for refusing to honor a prescription for certain reasons. If fewer civil actions occur as a result of the immunity provision, revenue to the following sources would be less than what would have otherwise occurred. The county general fund receives 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record receives 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general

fund. However, any changes in revenue are likely to be small.

*Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

**State Agencies Affected:** Health Professions Bureau, Board of Pharmacy; Department of Correction.

**Local Agencies Affected:** Trial courts; local law enforcement agencies.

**Information Sources:** Indiana Sheriffs' Association; Department of Correction.

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